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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

* * *

NO. 74-676

* * *

W. J. ESTELLE, JR., DIRECTOR
TEXAS DEPARTMENT OF CORRECTIONS,
Petitioner

V.

HARRY LEE WILLIAMS,
Respondent

* * *

REPLY TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

* * *

BEN L. ADERHOLT
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10

SUBJECT INDEX

Page

OPINION BELOW..... 1

STATEMENT OF THE CASE..... 1

REASONS FOR NOT GRANTING THE WRIT..... 2

1. Reply to Point One: The Holding Of The United States Court Of Appeals For The Fifth Circuit That Trial In Jail Clothing Destroys A Defendant's Presumption Of Innocence And Thereby Deprives Him Of a Fair Trial Is Sound..... 2

2. Reply To Point Two: The Fifth Circuit's Holding That A Trial In Jail Clothes Denies A Defendant A Fair Trial Will Not Have A Catastrophic Impact On The Administration Of Justice..... 3

3. Reply To Point Three: There Is No Conflict Between The Circuit Courts.... 3

CONCLUSION..... 4

PROOF OF SERVICE..... 5

AFFIDAVIT..... 6

INDEX OF AUTHORITIES

CASES Page

Anderson v. Watt, 475 F.2d 881 (10th Cir. 1973)..... 3

Brooks v. State of Texas (5th Cir. 1967)..... 2

Bentley v. Crist, 469 F.2d 854 (9th Cir. 1972)..... 4

Gaito v. Brierley, 485 F.2d 86 (3rd Cir. 1973)..... 4

Garcia v. Beto, 452 F.2d 655 (5th Cir. 1972)..... 2, 3

Goodspeed v. Beto, 460 F.2d 398 (5th Cir. 1972)..... 2

Hall v. Cox, 344 F.Supp. 786 (W.D.Va. 1971)..... 4

Hernandez v. Beto, 443 F.2d 634 (5th Cir. 1971), cert. den. 404 U.S. 897 (1971)..... 2, 3

Hollins v. Beto, 467 F.2d 951 (5th Cir. 1972)..... 2

Lemons v. United States, 489 F.2d 344 (3rd Cir. 1974)..... 4

McFalls v. Peyton, 270 F.Supp. 577 (W.D.Va. 1967), aff'd on other grounds 401 F.2d 890 (4th Cir. 1968) cert. den. 394 U.S. 951 (1969)..... 4

INDEX OF AUTHORITIES - - Continued

CASES	Page
Thomas v. Beto, 474 F.2d 981 (5th Cir. 1973)	2
United States v. Fideler, 457 F.2d 921 (5th Cir. 1972)	2
United States ex rel Stahl v. Henderson, 472 F.2d 556 (5th Cir. 1973)	2
United States v. Williams, 498 F. 2d 547 (10th Cir. 1974)	3
Watt v. Page, 452 F.2d 1174, 405 U.S. 1070; 31 LEd.2d 803, cert. den.	3
Williams v. Beto, 364 F.Supp. 335, 343 (SD Tex. 1973)	2
Williams v. State, 477 S.W.2d 24 (Tex. Crim. 1972)	3

IN THE

SUPREME COURT OF THE UNITED STATES

NO. 74-676

October Term, 1974

W. J. ESTELLE, JR., DIRECTOR,
TEXAS DEPARTMENT OF CORRECTIONS,
Petitioner

V.

HARRY LEE WILLIAMS,
Respondent

REPLY TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

The Respondent, Harry Lee Williams, respectfully prays that the Petition for a Writ of Certiorari as prayed for by the Petitioner, W. J. Estelle, Jr. be denied.

OPINION BELOW

The opinion delivered in the court below which reversed Respondent's conviction is reported at 500 F.2d 206 (1974) and is appended to the Petition as Appendix "A". The opinion of the United States District Court for the Southern District of Texas, which, denied Respondent's application for a writ of habeas corpus, is reported at 364 F.Supp. 335 (1973), a copy of which is appended to the Petition as Appendix "B". A copy of the opinion of the Court of Criminal Appeals of Texas which affirmed the Respondent's conviction is appended to the Petition as Appendix "C".

STATEMENT OF THE CASE

Respondent accepts Petitioner's statement of the case as found in its Petition. Respondent does not accept

ESTELLE'S EXHIBIT NO. 2

STATE OF TEXAS X
X
COUNTY OF HARRIS X

AFFIDAVIT

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared Marion Sanford, known to be a competent and credible person and over the age of twenty-one (21) years, and who, after being duly sworn did depose and say as follows:

My name is Marion Sanford, Jr., I am a practicing attorney licensed to practice law in the State of Texas. I served as court appointed counsel for one Forrest Randolph Smith, who was the defendant in a criminal case tried in Harris County District Court before Judge Myron A. Love on November 16, 1970. My recollection is that Mr. Smith was tried while wearing jail clothing. Although I am not positively certain about the matter, I believe

that I briefly discussed the fact that the defendant was being tried in jail clothing with Mr. Michael Ramsey, who was serving as co-counsel with me on the case. I do not distinctly recall our reasoning on this matter, however, we did not raise an objection nor make a request that the defendant be tried in civilian clothing in that case. However, I will state that in the few criminal cases which I have participated in, it is my opinion that the wearing of jail clothing by the defendant does not make a significant difference before the jury.

s/ Marion Sanford, Jr.
Marion Sanford, Jr.

The above and foregoing Affidavit was sworn to and subscribed before me by Marion Sanford, Jr. on the 3 day of July, 1973, to certify which, witness my hand and seal of office.

s/ Barbara Stephenson
Notary Public, Harris
County, Texas

ESTELLE'S EXHIBIT NO. 3

STATE OF TEXAS X
X
COUNTY OF HARRIS X

AFFIDAVIT

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared Clarence Kendall, known to be a competent and credible person and over the age of twenty-one (21) years, and who, after being duly sworn did depose and say as follows:

My name is Clarence Kendall. I am over 21 years of age and licensed to practice law in the State of Texas. My records indicate that I was court appointed counsel for one Vernon T. Cobb who was the defendant in a criminal case tried in Harris County District Court before Judge Myron A. Love on November 24, 1970. My recollection is that Mr. Cobb was tried while wearing some sort of jail clothing.

However, I have no other independent recollection about this trial. I do not remember at this time the reason why I did not object to the wearing of jail clothes by Mr. Cobb nor why I did not request that Mr. Cobb be allowed to wear civilian clothes at such trial. Further, I would state that from my past associations and dealings with Judge Love, it is my opinion that he would have sustained any objection to a defendant's wearing jail clothes and would have made every reasonable attempt to see that the defendant was supplied with civilian clothing to wear at a trial.

s/ Clarence Kendall
CLARENCE KENDALL

The above and foregoing Affidavit was sworn to and subscribed before me by Clarence Kendall on the 28th day of June,

1973, to certify which, witness my hand and seal of office.

s/ Allene Hopkins
Notary Public, Harris
County, Texas

ESTELLE'S EXHIBIT NO. 4

STATE OF TEXAS X
X
COUNTY OF HARRIS X

AFFIDAVIT

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared J. Weir, known to be a competent and credible person and over the age of twenty one (21) years, and who, after being duly sworn did depose and say as follows:

My name is J. Weir. I am a practicing attorney licensed to practice law in the State of Texas. I served as court appointed counsel for John Clyde Bradley, who was the defendant in a criminal case tried in Harris County District Court before Judge Myron A. Love on November 23, 1970. My best recollection is that Mr. Bardley was tried before a jury in jail clothes. To my recollection neither

I nor my co-counsel, Mr. Maurice Westerfield, objected or made a request that the defendant be tried in civilian clothing.

s/ James L. Weir
J. Weir

The above and foregoing Affidavit was sworn to and subscribed before me by J. Weir on the 5 day of July, 1973, to certify which, witness my hand and seal of office.

s/ Carol A. Goedeke
Notary Public, Harris County, Texas